

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
BECKLEY DIVISION**

**THOMAS SHEPPHEARD,
TYLER RANDALL, and
ADAM PERRY, next friend and guardian of
Minor child J.P., on their own behalf
and on behalf of all others
similarly situated,**

Plaintiffs,

v.

**Civil Action No. 5:23-cv-00530
Judge Irene C. Berger**

**JAMES C. JUSTICE JR., his official capacity
as Governor of the State of West Virginia, and
MARK SORSAIA, in his official capacity
as the Cabinet Secretary of the West Virginia
Department of Homeland Security,**

Defendants.

ORDER REGARDING CERTAIN RECORDS

Came the parties jointly to designate certain records as “restricted” and/or “not for inmate viewing.” Notwithstanding any provision of the Protective Order [ECF 40], the parties acknowledge that certain documents may not be suitable for production to any incarcerated parties or incarcerated witnesses. If a party or a non-party producing information in this civil action, or an attorney for the party or non-party, has a good faith belief that certain documents or other materials (including digital information) subject to disclosure pursuant to a request or court order are not suitable for production to incarcerated individuals or that production to an incarcerated individual may pose a security risk, the party, non-party, or attorney shall clearly mark each such document or other material as **“NOT APPROVED FOR INMATE PRODUCTION.”**

Any document or other material that is marked “**NOT APPROVED FOR INMATE PRODUCTION,**” or the contents thereof, may not be shown to and/or discussed with the inmate party. The individual or entity designating the document or materials as “**NOT APPROVED FOR INMATE PRODUCTION**” must take care to limit any such designation to specific documents or materials that qualify for protection under the appropriate standards. Mass, indiscriminate, or routine designations are prohibited. If it comes to the attention of the designating individual or entity that a document or other material has been improperly marked as “**NOT APPROVED FOR INMATE PRODUCTION,**” the designating individual or entity must promptly notify all parties that the erroneous designation is being withdrawn and must replace the improperly designated document or material with a copy that is not marked “**NOT APPROVED FOR INMATE PRODUCTION.**” If a party or attorney becomes aware of a disclosure to an incarcerated individual of a document or material designated “**NOT APPROVED FOR INMATE PRODUCTION,**” the party or attorney shall immediately notify all other parties and/or attorneys. Nothing within this provision prevents the attorney for an incarcerated individual from receiving, viewing, or using documents or materials designated “**NOT APPROVED FOR INMATE PRODUCTION**” in accordance with the Federal Rules of Civil Procedure and this Order. Likewise, if a party or an attorney for a party disputes whether a document or other material should be designated “**NOT APPROVED FOR INMATE PRODUCTION,**” the party and/or attorney shall attempt to resolve the dispute with the designating individual or entity. If they are unsuccessful, the party or attorney challenging the designation shall do so by filing an appropriate motion.

The terms and conditions of the previously entered Protective Order [ECF 40] remain in effect and govern the disclosure of the documents described herein, except as otherwise stated herein.

ENTER: April 16, 2024



A handwritten signature in blue ink, reading "Omar J. Aboulhosn".

Omar J. Aboulhosn
United States Magistrate Judge

Agreed to by:

/s/ Stephen P. New (with permission)

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